

112TH CONGRESS  
1ST SESSION

# H. R. 3435

To amend title 10, United States Code, to improve the prevention of and response to sexual assault in the Armed Forces, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2011

Ms. SPEIER (for herself, Ms. BASS of California, Mr. BLUMENAUER, Mr. BRALEY of Iowa, Mr. BUTTERFIELD, Ms. CLARKE of New York, Mr. CLAY, Mr. CLEAVER, Mr. DAVIS of Illinois, Ms. DELAURO, Ms. EDWARDS, Mr. ELLISON, Ms. ESHOO, Mr. FILNER, Mr. GRIJALVA, Ms. HAHN, Mr. JACKSON of Illinois, Ms. LEE of California, Ms. MATSUI, Mr. GEORGE MILLER of California, Ms. NORTON, Ms. PINGREE of Maine, Mr. RANGEL, Ms. RICHARDSON, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Ms. SCHAKOWSKY, Ms. SUTTON, Mr. THOMPSON of California, Mr. TOWNS, Mr. WALZ of Minnesota, Ms. WOOLSEY, Mr. HONDA, Mr. HEINRICH, Mr. SCOTT of Virginia, Ms. WATERS, Mrs. MALONEY, Mrs. LOWEY, Ms. MOORE, Mr. GUTIERREZ, Mr. BACA, Mr. KUCINICH, Ms. DEGETTE, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to improve the prevention of and response to sexual assault in the Armed Forces, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Sexual Assault Train-  
3 ing Oversight and Prevention Act” or the “STOP Act”.

4 **SEC. 2. FINDINGS.**

5       Congress makes the following findings:

6           (1) The Department of Defense conducted a  
7 survey of members of the Armed Forces serving on  
8 active duty that revealed that only 13.5 percent of  
9 such members reported incidents of sexual assault,  
10 which means that more than 19,000 incidents of  
11 sexual assault of members of the Armed Forces ac-  
12 tually occurred in 2010 alone.

13           (2) Despite modest attempts, the Department  
14 of Defense has failed to address the chronic under  
15 reporting of incidents of sexual assault and harass-  
16 ment, as by the Department’s own estimates, 86  
17 percent of sexual assaults went unreported in 2010.

18           (3) The military adjudication system itself lacks  
19 independence, as military judges depend on com-  
20 mand, and members of the Armed Forces have only  
21 limited access to civilian courts to address their  
22 grievances.

23           (4) The Cox Commission, sponsored by the Na-  
24 tional Institute of Military Justice, as well as several  
25 other actors, have consistently observed that the  
26 United States has fallen behind countries such as

1 Canada and the United Kingdom in terms of its  
2 military justice system.

3 (5) The military atmosphere is not conducive to  
4 resolving issues of sexual assault and harassment,  
5 and sexual violence continues to infect the Armed  
6 Forces.

7 (6) The culture of the United States Armed  
8 Forces is based on the chain of command. In a case  
9 of sexual assault, a commander may be responsible  
10 for both the victim and the offender, or both of their  
11 units, or the entire base or ship where the offense  
12 occurred. Command discretion empowers a com-  
13 mander to decide if the case goes forward to court  
14 martial. The great deference afforded command dis-  
15 cretion raises serious concerns about conflicts of in-  
16 terest and the potential for abuse of power.

17 **SEC. 3. DEPARTMENT OF DEFENSE SEXUAL ASSAULT OVER-**  
18 **SIGHT AND RESPONSE COUNCIL.**

19 (a) IN GENERAL.—Chapter 7 of title 10, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing new section:

22 **“§ 188. Sexual Assault Oversight and Response Coun-**  
23 **cil**

24 **“(a) ESTABLISHMENT; MEMBERSHIP.—**There is a  
25 Sexual Assault Oversight and Response Council (herein-

1 after in this section referred to as the ‘Council’). Com-  
2 posed of a majority of civilians this Council shall be inde-  
3 pendent from the chain of command within the Depart-  
4 ment of Defense.

5 “(b) MEMBERSHIP.—(1) The membership of the  
6 Council is comprised of individuals selected by the Presi-  
7 dent and the Secretary of Defense who are governmental  
8 and nongovernmental experts and professionals in the ju-  
9 dicial and sexual assault fields as follows:

10 “(A) Two members shall be appointed by the  
11 Secretary of the Defense from among the Depart-  
12 ment of Defense personnel who have previously  
13 served as military judges in courts-martial cases re-  
14 lating to sexual assault.

15 “(B) One member shall be appointed by the  
16 President from among the Department of Justice  
17 personnel with expertise in prosecuting cases of sex-  
18 ual assault.

19 “(C) One member shall be appointed by the  
20 President who shall have extensive experience advo-  
21 cating for the rights of those sexually assaulted  
22 while serving in the Armed Forces.

23 “(D) One member shall be appointed by the  
24 President who shall have extensive expertise adjudi-  
25 cating civilian cases of sexual assault.

1       “(2) Members shall be appointed for a term of three  
2 years, except that a member of the Council appointed to  
3 fill a vacancy occurring before the end of the term for  
4 which the member’s predecessor was appointed shall only  
5 serve until the end of such term. A member may serve  
6 after the end of the member’s term until the member’s  
7 successor takes office.

8       “(c) CHAIRMAN; MEETINGS.—(1) The Council shall  
9 elect a chair from among its members.

10       “(2) The Council shall meet not less often than once  
11 every year.

12       “(d) ADMINISTRATIVE PROVISIONS.—(1) Each mem-  
13 ber of the Council who is not an officer or employee of  
14 the Federal Government shall be compensated at a rate  
15 equal to the daily equivalent of the annual rate of basic  
16 pay prescribed for Executive Schedule Level IV under sec-  
17 tion 5315 of title 5, for each day (including travel time)  
18 during which such member is engaged in the performance  
19 of the duties of the Council. Members of the Council who  
20 are officers or employees of the United States shall serve  
21 without compensation in addition to that received for their  
22 services as officers or employees of the United States.

23       “(2) The members of the Council shall be allowed  
24 travel expenses, including per diem in lieu of subsistence,  
25 at rates authorized for employees of agencies under sub-

1 chapter I of chapter 57 of title 5, while away from their  
2 homes or regular places of business in the performance  
3 of services for the board.

4 “(e) RESPONSIBILITIES.—The Council shall be re-  
5 sponsible for the following matters:

6 “(1) Appointing certain personnel to the Sexual  
7 Assault Oversight and Response Office and advising  
8 the Sexual Assault Oversight and Response Office.

9 “(2) Appointing, in consultation with the Sec-  
10 retary of Defense, the Director of Military Prosecu-  
11 tions.

12 “(3) Appointing, in consultation with the Presi-  
13 dent and the Secretary of Defense, the Executive Di-  
14 rector of the Sexual Assault Oversight and Response  
15 Office.

16 “(4) Reviewing each request of the Director of  
17 Military Prosecutions with respect to a case stem-  
18 ming from a sexual-related offense that has been re-  
19 ferred to an appellate court within the military or  
20 that has been referred to the Department of Justice.

21 “(5) Submitting to the Secretary of Defense,  
22 Congress, and the Attorney General a report on each  
23 request by the Director of Military Prosecutions for  
24 a referral to a higher court.

1 “(6) Advising the Sexual Assault Oversight and  
2 Response Office on—

3 “(A) the development of sexual assault re-  
4 porting protocols;

5 “(B) the development of sexual assault  
6 risk-reduction and response training;

7 “(C) the development of sexual assault pol-  
8 icy; and

9 “(D) the effectiveness of the Director of  
10 Military Prosecution.”.

11 (b) CLERICAL AMENDMENT.—The table of sections  
12 at the beginning of such chapter is amended by adding  
13 at the end the following new item:

“188. Sexual Assault Oversight and Response Council.”.

14 **SEC. 4. DEPARTMENT OF DEFENSE SEXUAL ASSAULT OVER-**  
15 **SIGHT AND RESPONSE OFFICE.**

16 (a) IN GENERAL.—Chapter 4 of title 10, United  
17 States Code, is amended by adding at the end the fol-  
18 lowing new section:

19 **“§ 145. Sexual Assault Oversight and Response Office**

20 “(a) ESTABLISHMENT.—There is in the Department  
21 a Sexual Assault Oversight and Response Office (herein-  
22 after in this section referred to as the ‘Office’). The head  
23 of the Office is the Executive Director of the Sexual As-  
24 sault Oversight and Response Office, who shall be ap-

1 pointed by the Secretary of Defense, in consultation with  
2 the President.

3 “(b) RESPONSIBILITIES.—The Office shall be respon-  
4 sible for the following:

5 “(1) Coordination with appropriate military  
6 criminal investigative organizations to carry out in-  
7 vestigations of accusations of sexual assault.

8 “(2) Coordination and oversight of the provi-  
9 sion of the three fundamental rights of victims of  
10 sexual assault, safety, security, and a place to com-  
11 municate and to be validated.

12 “(3) Determining whether alleged victims or al-  
13 leged perpetrators of sexual assault should be tem-  
14 porarily reassigned to be separated from the alleged  
15 assailant.

16 “(4) Establishing protocols to ensure that all  
17 reports of sexual assault are taken out of the chain  
18 of command and reported directly to the Office.

19 “(5) Providing instruction in referring alleged  
20 victims of sexual assault to the Office to the fol-  
21 lowing personnel:

22 “(A) Sexual assault coordinators.

23 “(B) Sexual assault prevention and re-  
24 sponse victim advocates.

25 “(C) Health care personnel.



1 “(D) Chaplains.

2 “(E) Unit commanders.

3 “(F) Investigators and law enforcement  
4 personnel.

5 “(G) Judge advocates.

6 “(6) Maintaining the Military Sexual Registry  
7 under section 563 of the Duncan Hunter National  
8 Defense Authorization Act for Fiscal Year 2009  
9 (Public Law 110–417).

10 “(c) COORDINATION OF TRAINING.—The Executive  
11 Director shall coordinate the training efforts of the Office  
12 with each of the military departments to ensure that all  
13 members of the Armed Forces receive—

14 “(1) the contact information for the Sexual As-  
15 sault Oversight and Response Office for purposes of  
16 reporting violations of sexual-related offenses; and

17 “(2) clear, written guidelines regarding who on  
18 the Sexual Assault Oversight and Response Office to  
19 contact, including the direct telephone number for a  
20 victims’ advocate, and what steps to take in the  
21 event of a sexual assault.

22 “(d) PERSONNEL.—For the purposes of carrying out  
23 the responsibilities of the Office, the Executive Director  
24 of the Sexual Assault Oversight and Response Office, in  
25 consultation with the Sexual Assault Response Council es-

1 tablished under section 188 of this title, may select, ap-  
2 point, and employ such officers and employees as may be  
3 necessary, subject to the provisions of title 5, United  
4 States Code, governing appointments in the competitive  
5 service, and the provisions of chapter 51 and subchapter  
6 III of chapter 53 of such title, relating to classification  
7 and General Schedule pay rates.

8 “(f) INSPECTOR GENERAL REVIEWS.—The Inspector  
9 General shall conduct case reviews of a statistically signifi-  
10 cant number of cases involving allegations of sexual as-  
11 sault on a quarterly basis to determine if proper proce-  
12 dures were followed in accordance with the sexual assault  
13 protocols and guidelines within the Sexual Assault Over-  
14 sight and Response Office.

15 “(g) REPORT TO CONGRESS.—The Executive Direc-  
16 tor shall submit to Congress an annual report on sexual  
17 assault in the Armed Forces.

18 “(h) DEFINITION OF MILITARY CRIMINAL INVES-  
19 TIGATIVE ORGANIZATION.—In this section, the term ‘mili-  
20 tary criminal investigative organization’ means the Army  
21 Criminal Investigation Command, the Naval Criminal In-  
22 vestigative Service, and the Air Force Office of Special In-  
23 vestigations.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 at the beginning of such chapter is amended by adding  
3 at the end the following new item:

“145. Sexual Assault Oversight and Response Office.”.

4 (c) TRANSFER OF FUNCTION.—All functions and  
5 personnel of the Sexual Assault Prevention and Response  
6 Office of the Department of Defense, as of the date of  
7 the enactment of this Act, shall be transferred to the Sex-  
8 ual Assault Oversight and Response Office established by  
9 section 145 of title 10, United States Code, as added by  
10 subsection (a).

11 **SEC. 5. DIRECTOR OF MILITARY PROSECUTIONS.**

12 (a) IN GENERAL.—Chapter 47 of title 10, United  
13 States Code, is amended by inserting after section 940 the  
14 following new section:

15 **“§ 940A. Art. 140A. Director of Military Prosecutions**

16 “(a) APPOINTMENT.—There is a Director of Military  
17 Prosecutions who shall be appointed by the Sexual Assault  
18 Oversight and Response Council established under section  
19 188 of this title.

20 “(b) RESPONSIBILITIES.—Notwithstanding any other  
21 provision of this chapter, the Director of Military Prosecu-  
22 tions shall have independent and final authority to oversee  
23 the prosecution of all sexual-related offenses committed by  
24 a member of the Armed Forces and shall refer cases to  
25 be tried by courts-martial. The Director may, at any time

1 prior to the judge rendering a verdict, request that the  
2 sexual-related offense be referred to a military appellate  
3 court or referred to the Department of Justice. The Direc-  
4 tor shall be the convening authority for all sexual-related  
5 offenses and shall determine the type of court-martial to  
6 which each such case will be referred. Members of a court-  
7 martial shall be selected by a court-martial administrator  
8 at the request of the Director.

9 “(c) SEXUAL-RELATED OFFENSE.—In this section,  
10 the term ‘sexual-related offense’ means—

11 “(1) rape;

12 “(2) aggravated sexual assault;

13 “(3) abusive sexual contact;

14 “(4) indecent assault;

15 “(5) nonconsensual sodomy;

16 “(6) an attempt to commit an offense described  
17 in any of paragraphs (1) through (5); and

18 “(7) any other sexual offense the Secretary de-  
19 termines is appropriate.”.

20 (b) CLERICAL AMENDMENT.—The table of sections  
21 at the beginning of such chapter is amended by inserting  
22 after the item relating to section 940 the following new  
23 item:

“940A. Art. 140A. Director of Military Prosecutions.”.

1 **SEC. 6. INFORMATION DATABASE ON SEXUAL ASSAULT IN-**  
2 **CIDENTS IN THE ARMED FORCES.**

3 Section 563 of the Duncan Hunter National Defense  
4 Authorization Act for Fiscal Year 2009 (Public Law 110–  
5 417) is amended by striking subsections (a) and (b) and  
6 inserting the following new subsections:

7 “(a) **MILITARY SEXUAL REGISTRY.**—

8 “(1) **DATABASE REQUIRED.**—The Secretary of  
9 Defense shall implement a centralized, case-level  
10 database, to be known as the ‘Military Sexual Reg-  
11 istry’, for the collection, in a manner consistent with  
12 Department of Defense regulations for restricted re-  
13 porting, and maintenance of information regarding  
14 sexual assaults involving a member of the Armed  
15 Forces, including information, if available, about the  
16 nature of the assault, the victim, the offender, and  
17 the outcome of any legal proceedings in connection  
18 with the assault. The Secretary shall consult with  
19 the Attorney General to ensure that the Military  
20 Sexual Registry is designed to facilitate the report-  
21 ing of relevant information about individuals in-  
22 cluded in the database to the Department of Justice  
23 for inclusion in the National Sex Offender Registry  
24 established under section 119 of the Adam Walsh  
25 Child Protection and Safety Act of 2006 (42 U.S.C.  
26 16919).

1           “(2) INFORMATION REQUIRED.—The Military  
2 Sexual Registry shall include the following informa-  
3 tion about each individual who is a member of the  
4 Armed Forces who is convicted of committing a sex-  
5 ual assault:

6           “(A) The name of the individual, including  
7 any alias used by the individual.

8           “(B) All relevant aspects of the case  
9 against the individual.

10          “(C) The Social Security number of the in-  
11 dividual.

12          “(D) The address of each residence where  
13 the individual resides or plans to reside.

14          “(E) The license plate number and a de-  
15 scription of any vehicle owned or operated by  
16 the individual.

17          “(F) A criminal history of the individual,  
18 including the date of all sexual offenses com-  
19 mitted by the individual, the date of any convic-  
20 tion of the individual for a sexual offense, and  
21 the status of the individual’s parole, probation,  
22 or supervised release.

23          “(G) A DNA sample of the individual.

24          “(H) A current photograph of the indi-  
25 vidual.

1                   “(I) Any other information required by the  
2                   Secretary.

3           “(b) LOCATION OF DATABASE.—The Military Sexual  
4 Registry shall be housed at and maintained by the Sexual  
5 Assault Oversight and Response Office of the Department  
6 of Defense under section 145 of title 10, United States  
7 Code.”.

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